

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

RAYMOND WARE,)	CIVIL NO. 04-00671 HG LEK
)	
Plaintiff,)	DECLARATION OF COUNSEL
)	
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
Department of Homeland Security;)	
JOHN DOES 2-5,)	
)	
Defendants.)	
_____)	

DECLARATION OF COUNSEL

DAPHNE BARBEE, declares under penalty of perjury, as follows:

1. Declarant represents plaintiff in the above-entitled action.
2. A jury verdict was returned on March 20, 2008 finding in favor of plaintiff on his discrimination and retaliation claims, however only awarding zero compensatory damages.
3. Under Title VII, 42 U.S.C. 2000(e)(5)(g) a prevailing plaintiff is entitled to recover compensatory damages.
4. In the instant case plaintiff is the prevailing party as the jury found he was discriminated against by defendant pursuant which is attached as Exhibit 1.

5. Although the jury awarded zero damages for compensatory pain and suffering, this amount is not supported by the evidence in this case.

6. Plaintiff respectfully requests that this Court increase the monetary amount for compensatory damages.

7. Other courts have ruled when a jury verdict returned a zero compensatory damage award, the award can be increased to \$1 or more to accompany other damages. See Abner v. Kansas City Southern RR, 513 F.3d 154 (5th Cir. 2008).

8. In the instant case as the jury found defendants discriminated, zero damage does not adequately reflect the seriousness of the complaint and plaintiff's emotional injury resulting from defendant's violation of his civil rights.

9. Plaintiff therefore respectfully requests that this Court grant an additur and award more than zero damages as compensatory damages in this case.
FURTHER DECLARANT SAYETH NAUGHT.

DATED: Honolulu, Hawaii, 3-24-08.



DAPHNE E. BARBEE
Attorney for Plaintiff RAYMOND WARE